

Prob 12B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**

(*Probation Form 49, Waiver of Hearing, is on file*)

Offender Name: Jimmy Richard MORRISON

Docket Number: 1:03CR05392-01
1:04CR05255-01

Offender Address: Modesto, California

Judicial Officer: Honorable Oliver W. Wanger
Senior United States District Judge
Fresno, California

Original Sentence Date: 09/07/2004

Original Offense: 1:03CR05392-01: 18 USC 2252(a)(4)(B) - Possession
of Material Involving the Sexual Exploitation of Minors
(CLASS C FELONY)

1:04CR05255-01: 18 USC 2252(a)(1) and (b)(1) -
Transporting or Shipping in Interstate Commerce Child
Pornography (CLASS C FELONY)

Original Sentence: 09/07/2004

Special Conditions: Search; Participate in a correctional treatment program
(inpatient or outpatient); Participate in a co-payment
plan for treatment or testing; Defendant shall not
possess a computer or any other device that has
access to any "on-line computer service." This includes
any internet service provider, bulletin board system, or
any other public or private computer network;
Defendant shall consent to the probation officer and/or
probation service representative conducting periodic
unannounced examinations of any computer equipment
or device that has an internal or external modem which
may include retrieval and copying of all data from the
computer or device and any internal or external
peripherals to ensure compliance with conditions and/or
removal of such equipment for purposes of conducting

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a more thorough inspection; and consent at the direction of the probation officer to having installed on the computer or device, at the defendant's expense, any hardware or software systems to monitor the computer or device's use; Defendant shall not possess, own, use, view, read or frequent places with any sexually explicit material in any form that depicts children under the age of 18. Sexually explicit conduct is defined at 18 USC 2256(2) and means actual or simulated (a) sexual intercourse, including genital-genital, oral-genital, or oral-anal, whether between the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic area of any person under the age of 18; Defendant shall attend, cooperate with, and actively participate in sex offender treatment and therapy program (which may include, but is not limited to risk assessment, polygraph examination, computer voice stress analysis (CVSA), penile plethysmograph and/or ABEL assessment) as approved and directed by the probation officer and as recommended by the assigned treatment provider; Defendant shall register, as required in the jurisdiction in which he resides, as a sex offender.

Type of Supervision:	Supervised release	
Supervision to Commence:	03/28/2008	
Assistant U.S. Attorney:	David L. Gappa	Telephone: (559) 497-4500
Defense Attorney:	Robert W. Rainwater	Telephone: (559) 487-5561
Other Court Action:	None	

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PETITIONING THE COURT

To modify the conditions of supervision as follows:

1. As directed by the probation officer, the defendant shall participate in a program of testing (i.e., breath, urine, sweat patch, etc.) to determine if he has reverted to the use of drugs or alcohol.
2. The defendant shall have no contact with children under the age of 18 unless approved by the probation officer in advance. The defendant is not to loiter within 100 feet of school yards, parks, playgrounds, arcades, or other places primarily used by children under the age of 18. This shall include that the defendant is not to engage in any occupation, either paid or volunteer, which exposes him directly or indirectly to children under the age of 18.
3. The defendant shall consent to the probation officer and/or probation service representative conducting periodic unannounced examinations of (a) any computer, or (b) computer-related device, or (c) equipment that has an internal or external modem which is in the possession or control of the defendant. The defendant consents to retrieval and copying of all data from any such computer, computer-related device, or equipment as well as any internal or external peripherals to ensure compliance with conditions. The defendant consents to removal of such computer, computer-related devices, and equipment for purposes of conducting a more thorough inspection and analysis.

The defendant consents to having installed on any computer, computer-related device, and equipment, at the defendant's expense, any hardware or software systems to monitor the use of such computer, computer-related device, and equipment at the direction of the probation officer, and agrees

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not to tamper with such hardware or software and not install or use any software programs designed to hide, alter, or delete his/her computer activities. The defendant consents to not installing new hardware without the prior approval of the probation officer.

4. The defendant shall provide all requested business/personal phone records to the probation officer. The defendant shall disclose to the probation officer any existing contracts with telephone line/cable service providers. The defendant shall provide the probation officer with written authorization to request a record of all outgoing or incoming phone calls from any service provider.
5. The defendant shall not possess children's clothing, toys, games, or stuffed animals without prior approval of the probation officer.

Justification: Mr. Morrison appeared for sentencing on two separate federal matters on September 7, 2004. At the time of his sentencing, he was ordered to submit to a number of special sex offender conditions. As time has passed, the United States Probation Office has evolved and our supervision conditions have expanded with the intent of providing the proper supervision of different types of offenders. Our special conditions of supervision formulated for sex offenders has expanded since Mr. Morrison's sentencing in 2004. The above recommended additional special conditions are requested as they are seen as necessary tools to effectively monitor and supervise Mr. Morrison while in the community for the purpose of protecting the public and to assist the offender. Mr. Morrison will release from the custody of the Bureau of Prisons on March 28, 2008.

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Mr. Morrison has been advised of his right to a hearing and the assistance of counsel before any unfavorable changes to his conditions of Supervised Release. On December 5, 2007, he signed a Waiver of Hearing to Modify Conditions of his Supervised Release to add the above-noted special conditions. The Probation Officer is requesting the Court approve the modifications as requested.

Respectfully submitted,

/s/ Sandra K. Dash

**SANDRA K. DASH
United States Probation Officer
Telephone: (209) 549-2817**

DATED: February 14, 2008
Modesto, California
SKD:lr

REVIEWED BY: /s/ Deborah A. Spencer
DEBORAH A. SPENCER
Supervising United States Probation Officer

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THE COURT ORDERS:

- (X) Modification approved as recommended.
- () Modification not approved at this time. Probation Officer to contact Court.
- () Other:

IT IS SO ORDERED.

Dated: February 15, 2008 /s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE